

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today
(1) was not written for publication in a law journal and
(2) is not binding precedent of the Board.

Paper No. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT L. JARDINE, RICHARD M. COLLINS and
LARRY D. REEVES

Appeal No. 96-3124
Application 08/265,585 ¹

ON BRIEF

Before HAIRSTON, JERRY SMITH and FLEMING, **Administrative
Patent Judges.**

FLEMING, **Administrative Patent Judge.**

DECISION ON APPEAL

This is a decision on appeal from the final rejection of
claims 3 through 12. Claims 1 and 2 have been canceled.

¹Application for patent filed June 23, 1994.

The invention relates to fault-tolerant multiple processor systems. In particular, the invention is directed to a technique

that permits the system to recover from momentary or very short drops in primary power that may be noticed by fewer than all of the processors.

The independent claim 3 is reproduced as follows:

3. A processing system composed of a plurality of processor units interconnected for communicating messages there-between, including presence messages sent by each of the plurality of processor units to the plurality of processor units during a regroup operation to determine the plurality of processor units of the processing system, each of the plurality of processor units having a source of power and a detector element for monitoring the source of power for power-fail situations to produce a power-fail signal indicative of a possible impending failure of the source of power, and responsive to the power-fail signal each of the processor units performing the steps of:

broadcasting a power-fail message to the plurality of processor units indicating receipt of the power-fail signal;

recording receipt of the power-fail message; and

during a regroup operation, checking for a recordation of a prior received power-fail message, and if the recordation exists sending a

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cautious message to the plurality of processor units indicating receipt of a power-fail message.

The Examiner relies on the following reference:

Whiteside et al. (Whiteside)	4,356,546	Oct.
26, 1982		

Claims 3 through 12 stand rejected under 35 U.S.C. § 103 as being unpatentable over Whiteside.

Rather than reiterate the arguments of Appellants and the Examiner, reference is made to the brief and answer for the respective details thereof.

OPINION

We will not sustain the rejection of claims 3 through 12 under 35 U.S.C. § 103.

The Examiner has failed to set forth a ***prima facie*** case. It is the burden of the Examiner to establish why one having ordinary skill in the art would have been led to the claimed invention by the express teachings or suggestions found in the prior art, or by implications contained in such teachings or suggestions. ***In re Sernaker***, 702 F.2d 989, 995, 217 USPQ 1, 6 (Fed. Cir. 1983). "Additionally, when determining obviousness, the claimed invention should be considered as a

whole; there is no legally recognizable 'heart' of the invention." ***Para-Ordnance Mfg. v. S.S. Importers Int'l, Inc.***, 73 F.3d 1085, 1087, 37 USPQ2d 1237, 1239 (Fed. Cir. 1995), ***cert. denied***, 117 S.Ct. 80 (1996) ***citing W. L. Gore & Assocs., Inc. v. Garlock, Inc.***, 721 F.2d 1540, 1548, 220 USPQ 303, 309 (Fed. Cir. 1983), ***cert. denied***, 469 U.S. 851 (1984).

Appellants argue on pages 6 and 7 of the brief that Whiteside fails to teach or suggest "during a regroup operation, checking for a recordation of a prior received power-fail mes-sage, and if the recordation exists sending a cautious message to

the plurality of processor units indicating receipt of a power-fail message" as recited in Appellants' claim 3. We note that the only other independent claim, claim 6, recites "during a regroup operation, checking for a recordation of a prior received power-fail message, and if the recordation is found sending the regroup message to the plurality of processor units indicating receipt of a power-fail message."

Whiteside teaches in column 10, lines 21-46, that the

fault handler 204 shown in Figure 4, residing in each of computers 10a through 10n shown in Figure 1, performs five fault detection checks. We note that none of the five fault detection checks is directed to specifically detect only a power failure. We note that one of these five fault detection checks, number 4, which determines if the task execution was executed within a predetermined time would detect a computer that has had a power failure. However, the check would not know if the task was not executed timely because of a power failure or because of another failure such as a software error. Thus, Whiteside fails to detect a power failure as well as fails to produce a power-failure signal.

Whiteside teaches in column 10, lines 47-56, that once one of the five fault detection checks determines an error, the fault

handler 204 transmits an error message to the other computers, and the other computers store the error message when received, each computer decides if the computer identified by the error

message is faulty and discards all messages received from that computer if determined to be faulty. As disclosed in column 12, lines 45-50, the error message includes an error type code. However, this code only identifies which of the fault detection checks found in column 10, lines 29-46, determined a fault.

Even if we could view the fault detection check, number 4, as a power failure determination and that the fault handler 204 broadcasted a power failure message, we fail to find that Whiteside teaches checking the recordation of the received power failure message and if the recordation is found sending a cautious message as recited in claim 3 or a regroup message as recited in claim 6 indicating receipt of a power-fail message. In contrast, upon receipt of the error message, Whiteside teaches that each computer decides on whether to discard the messages from the faulty computer. Whiteside does not teach method steps of checking for a recordation of a message and then sending a message if a recordation is found.

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We have not sustained the rejection of claims 3 through 12 under 35 U.S.C. § 103. Accordingly, the Examiner's decision is reversed.

REVERSED

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
JERRY SMITH)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
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MICHAEL R. FLEMING)	
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